

the bridge safety duties of the track owner under this part; and

(6) A statement signed by the assignee acknowledging the assignment to him of responsibility for purposes of compliance with this part.

(c) The Administrator may hold the track owner or the assignee, or both, responsible for compliance with this part and subject to penalties under § 237.7.

(d) A common carrier by railroad which is directed by the Surface Transportation Board to provide service over the track of another railroad under 49 U.S.C. 11123 is considered the owner of that track for the purposes of the application of this part during the period the directed service order remains in effect.

(e) When any person, including a contractor for a railroad or track owner, performs any function required by this part, that person is required to perform that function in accordance with this part.

(f) Where an owner of track to which this part applies has previously assigned responsibility for a segment of track to another person as prescribed in 49 CFR 213.5(c), additional notification to FRA is not required.

(g) FRA reserves the right to reject an assignment of responsibility under § 237.3(b) for cause shown.

§ 237.5 Definitions.

For the purposes of this part—

Bridge modification means a change to the configuration of a railroad bridge that affects the load capacity of the bridge.

Bridge repair means remediation of damage or deterioration which has affected the structural integrity of a railroad bridge.

Railroad bridge means any structure with a deck, regardless of length, which supports one or more railroad tracks, or any other undergrade structure with an individual span length of 10 feet or more located at such a depth that it is affected by live loads.

Track owner means a person responsible for compliance in accordance with § 237.3.

§ 237.7 Penalties.

(a) Any person who violates any requirement of this part or causes the violation of any such requirement is subject to a civil penalty of at least \$650 and not more than \$25,000 per violation, except that: Penalties may be assessed against individuals only for willful violations, and, where a grossly negligent violation or a pattern of repeated violations has created an imminent hazard of death or injury to persons, or has caused death or injury, a penalty not to exceed \$105,000 per violation may be assessed. “Person” means an entity of any type covered under 1 U.S.C. 1, including but not limited to the following: A railroad; a manager, supervisor, official, or other employee or agent of a railroad; any owner, manufacturer, lessor, or lessee of railroad equipment, track, or facilities; any independent contractor providing goods or services to a railroad; any employee of such owner, manufacturer, lessor, lessee, or independent contractor; and anyone held by the Administrator of the Federal Railroad Administration to be responsible under § 237.3(d). Each day a violation continues shall constitute a separate offense. See appendix B to this part for a statement of agency civil penalty policy.

(b) Any person who knowingly and willfully falsifies a record or report required by this part may be subject to criminal penalties under 49 U.S.C. 21311.

[75 FR 41302, July 15, 2010, as amended at 77 FR 24422, Apr. 24, 2012]

§ 237.9 Waivers.

(a) Any person subject to a requirement of this part may petition the Administrator for a waiver of compliance with such requirement. The filing of such a petition does not affect that person's responsibility for compliance with that requirement while the petition is being considered.

(b) Each petition for waiver must be filed in the manner and contain the information required by part 211 of this chapter.

(c) If the Administrator finds that a waiver of compliance is in the public interest and is consistent with railroad

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safety, the Administrator may grant the waiver subject to any conditions the Administrator deems necessary. If a waiver is granted, the Administrator publishes a notice in the FEDERAL REGISTER containing the reasons for granting the waiver.

Subpart B—Railroad Bridge Safety Assurance

§ 237.31 Adoption of bridge management programs.

Each track owner shall adopt a bridge safety management program to prevent the deterioration of railroad bridges by preserving their capability to safely carry the traffic to be operated over them, and reduce the risk of human casualties, environmental damage, and disruption to the Nation's railroad transportation system that would result from a catastrophic bridge failure, not later than the dates in the following schedule:

- (a) March 14, 2011: Class I carriers;
- (b) March 14, 2011: Owners of track segments which are part of the general railroad system of transportation and which carry more than ten scheduled passenger trains per week;
- (c) September 13, 2011: Class II carriers to which paragraph (b) of this section does not apply; and
- (d) September 13, 2012: All other track owners subject to this part and not described paragraphs (a) through (c) of this section.

§ 237.33 Content of bridge management programs.

Each bridge management program adopted in compliance with this part shall include, as a minimum, the following:

- (a) An accurate inventory of railroad bridges, which shall include a unique identifier for each bridge, its location, configuration, type of construction, number of spans, span lengths, and all other information necessary to provide for the management of bridge safety;
- (b) A record of the safe load capacity of each bridge;
- (c) A provision to obtain and maintain the design documents of each bridge if available, and to document all repairs, modifications, and inspections of each bridge; and

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(d) A bridge inspection program covering as a minimum:

- (1) Inspection personnel safety considerations;
- (2) Types of inspection including required detail;
- (3) Definitions of defect levels along with associated condition codes if condition codes are used;
- (4) The method of documenting inspections including standard forms or formats;
- (5) Structure type and component nomenclature; and
- (6) Numbering or identification protocol for substructure units, spans, and individual components.

Subpart C—Qualifications and Designations of Responsible Persons

§ 237.51 Railroad bridge engineers.

(a) A railroad bridge engineer shall be a person who is determined by the track owner to be competent to perform the following functions as they apply to the particular engineering work to be performed:

- (1) Determine the forces and stresses in railroad bridges and bridge components;
 - (2) Prescribe safe loading conditions for railroad bridges;
 - (3) Prescribe inspection and maintenance procedures for railroad bridges; and
 - (4) Design repairs and modifications to railroad bridges.
- (b) The educational qualifications of a railroad bridge engineer shall include either:
- (1) A degree in engineering granted by a school of engineering with at least one program accredited by ABET, Inc. or its successor organization as a professional engineering curriculum, or a degree from a program accredited as a professional engineering curriculum by a foreign organization recognized by ABET, Inc. or its successor; or
 - (2) Current registration as a professional engineer.

(c) Nothing in this part affects the States' authority to regulate the professional practice of engineering.